IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. 165 OF 2004

Dr. Sanjay S. Mhatre & ors.] .. Petitioners

Versus

The Secretary, Secondary & Higher Secondary Education Board, Pune & ors.] .. Respondents

Ms. Sheetal Kumar i/b M/s. Milan Bhise & Co. for petitioners.

Mrs. Deepa Chavan i/b M/s. Little & Co. for respondent No.1.

Mr. P.M. Patil, AGP, for respondent No.3.

CORAM: R.M. LODHA &
NARESH H. PATIL, JJ.

DATED: 09TH AUGUST, 2006

P.C. :

. The issue raised in this Writ Petition by means of public interest litigation is regarding permissive use of calculators in class XI and XII by the children with learning disabilities (known as dyslyxia, dyscalculia and dysgraphia).

2. Pursuant to the order passed by this Court on 18th February, 2005, an Expert Committee was constituted to consider the issue of grant of permission to use

calculator by the learning disability students.

3. Pursuant thereto, the Committee comprising of Dr. Madhuri Kulkarni, Professor & Head, Department of Pediatrics, LTMG Hospital, Sion, Mumbai, Dr. Beena Sawant, Child Psychologist, Sir J.J. Group of Hospitals, Mumbai, Dr. H.C .Pradhan, Professor & Dean of Faculty, Homi Bhabha Centre for Science Education, TIFR, Mankhurd, Mumbai and Dr. Nilesh Shah, Head of Department, Psychiatry, Sir J.J. Group of Hospitals, Mumbai examined the question from diverse angles and submitted their report.

4. The Committee in Chapter III under the Head 'Observations of the Committee' *inter alia* recorded thus:

> "1. .....
> 2. .....
> 3. .....
> 4. .....
> 5. .....
>
> 6. It is logical argument that in Std. XI and XII (Commerce) Examination the Accountancy paper does not primarily assess student's calculation skill. This skill supports other skills which are primarily assessed in this paper and therefore students should be allowed to use calculators. Already in XIII (F.Y.B.Com), XIV (S.Y.B.Com) and XV (T.Y.B.Com) standards use of calculator for accounts papers is allowed. On the basis of this argument and logic, one

> may allow use of calculator for all the students (not only for students certified having learning disability) for the accounts paper in XI and XII standards.
>
> 7. .....
> 8. .....
> 9. .....
>
> 10. Even if students having learning disability are allowed use of calculator in Std XI and XII mathematics paper, it may not help them and may not improve their performance as they may punch in the wrong numbers in calculator due to their difficulty in transferring the number from paper to calculator. If even after using calculator, their performance does not improve, they may get more frustrated and dispirited."

5. Then in Chapter IV under the Head ‘Recommendations of the Committee’, the Committee has unanimously recommended the use of calculators to all students of Standard XII in the Book Keeping & Accountancy paper in the commerce stream of HSC Board Examination. As regards learning disability students, the Committee suggested that these students be allowed extra time of fifteen minutes per hour of the duration of the test; for a two-hour test the extra time should be thirty minutes and for a three-hour test it should be forty-five minutes and for two and half hour test, forty minutes. Vinay C. Dakshindas the Secretary of the Maharashtra State Board of Secondary & Higher Secondary Education has filed two Affidavits; the first on 7th

February, 2005 and the second on 24th January, 2005.

6. It is a case of the Board that in respect of children suffering from learning disability, the Board way-back in the year 1996 resolved to grant special concession to these students. These concessions are threefold viz.:

> "i) Concessions in respect of curriculum.
>
> ii) Concession in respect of the pattern of the Examinations.
>
> iii) Concessions in respect of the appearance at the Examinations.
>
> The concessions granted by the Board for students afflicted with learning disorders are provided for broadly three types of learning disabilities.
>
> (1) Dyslexia: The affliction connotes difficulty with words and skills associated with the process of learning such as reading comprehension, spelling, speaking and listening.
>
> (2) Dysgraphia: This connotes difficulty in writing.
>
> (3) Dyscalculia: This connotes difficulty in skills associated with mathematical computations and reasoning.
>
> I say that the concessions granted to such special students are as follows:
>
> (I) Deaf-Dumb, Blind and Physically disabled candidates shall be given extra 30 minutes to solve the question papers and if found necessary they will be provided with a

writer at the time of the examination. The supervision charges for such arrangements will however be borne by the Board. Seating arrangement in such cases shall be made in a separate room.

(II) Spastic candidates shall be given extra 2 hours to solve the question paper and Learning disabled candidates shall be given extra 1 hour to solve the question paper. These candidates shall be permitted to type or write the answer scripts or they shall be permitted to take help of a writer for full paper or for part of the paper in case the candidate feels tired or exhausted while typing or writing the paper. The writer will be provided in consultation with the head of the institution concerned.

The writers shall be persons not directly concerned with teaching the candidates but able to understand the candidate's speech. They shall be chosen very carefully and instructed to write down exactly what the spastic, learning disabled candidates say to them.

Before the examination commences, an undertaking shall be taken from the writer to the effect that there will be no misuse of the concession. The institution shall arrange to provide typewriters, tables, chairs (specially made for such students) etc. if necessary, without any charge to the Board. However, the supervision charges at the time of examination will be borne by the Board.

(III) These candidates will be given nearest examination center of their choice and further seating arrangement of these candidates shall be made in a separate room.

(IV) In the case of Deaf and Dumb and learning disabled candidates, teachers from the Junior College concerned may be permitted for a period of maximum 15 minutes to explain the question paper to the concerned candidates in the examination hall.

(V) Deaf-Dumb spastic and learning

disabled candidates shall be permitted to offer one language i.e. English only instead of two languages. Candidates appearing under Vocational group shall be permitted to offer only one permissible language i.e. English only.

(VI) Deaf-Dumb, Spastic and learning disabled candidates selecting Arts or Commerce or Science stream, shall be permitted to offer one language and five more subjects from optional group, instead of the two languages and four optional subjects.

(VII) In the case of Blind, Deaf-Dumb, Physically disabled, Spastic and Learning disabled candidates selecting Vocational course, a certificate of having completed the course satisfactorily issued by the Head of the Institution specially recognised for imparting education to such students shall be considered for H.S.C. Examination.

(VIII) Blind, Spastic, Physically disabled and Learning disabled candidates shall be exempted from drawing figures, maps and graphs etc. and the marks for these shall be proportionately increased. However, all these candidates will have to appear for practical examination in the respective subjects.

(IX) In the case of blind, or deaf or dumb or physically handicapped or spastic or learning disabled candidates, the limit of maximum 10 grace marks in a subject shall be extended up to total 15 grace marks."

8. With regard to use of calculators by all students appearing in Book Keeping and Accountancy paper, the view of the Board is that such Scheme is neither feasible nor possible.

9. Having considered the Affidavit filed on behalf of the Board and the recommendations of the Expert Committee, we are of the view that by providing calculators to the learning disabled students appearing in Mathematics, Book Keeping and Accountancy paper, in Standard XII Board Examination, their cause will be helped and it may not be correct to suggest that if even after using calculator if the performance of learning disabled students does not improve, they may get more frustrated and dispirited.

10. We, accordingly, direct that the students having learning disability who appear in the Mathematics and/or Book Keeping & Accountancy paper in Standard XII Board Examination may be allowed the use of calculator.

11. No further direction needs to be passed.

. Writ Petition is disposed of accordingly.

Sd/-
[R.M. LODHA, J.]

Sd/-
[NARESH H. PATIL, J.]